



Alcoholic Beverage Control Summit

*Jointly presented by: Kentucky League of Cities,
Kentucky Association of Counties and
Kentucky Department of Alcoholic Beverage Control
August 21 – 22, 2013*





Dry Communities

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Types of Local Option Elections Available to Dry Territories

- Regular Wet Election. (KRS 242.030-.050; KRS 242.125). Counties and 1st to 4th Class Cities.
- Limited Restaurant Elections. (KRS 242.1244). Counties and Cities.
- Golf Course Election. (KRS 242.123). Precinct.
- Small Farm Winery. (KRS 242.124). Precinct.
- Qualified Historic Site Election. (KRS 242.1242). Precinct.
- Horse Racetrack Election. (KRS 242.1238). Precinct.
- 4th Class City Liquor/Wine Drink Sales. (KRS 242.1238). 4th Class City.



Type of Local Option Election Determines Type of Licenses Available

- Regular Wet Election - All license types (with some exceptions).
- Limited Restaurant Elections - Limited Restaurants only.
- Golf Course Election - Specific Golf Course only.
- Small Farm Winery - Specific Small Farm Winery only.
- Qualified Historic Site Election - Qualified Historic only.
- Horse Racetrack Election - Horse Track Only.



Petition for Local Option Election

KRS 242.020

- The petition must be signed by a number of registered voters in the “territory” equal to twenty-five percent (25%) of the votes cast in last preceding general election. (KRS 242.020 (1)).
- Voters signing a petition must include their name, residence address, date of birth, and the date that they signed petition. (KRS 242.020(2)).
- The petition can only be circulated for six (6) months prior to its filing. (KRS 242.020(4)).
- “Petition” may consist of several different units, as long as they are all filed together at the same time. Rodgers v. Campbell, 101 S.W.2d 937 (Ky. 1937)(46 different units).



Petition for Local Option Election

- The statutes authorizing the different types of local option elections now state how the petitions should be worded for each different type of election.
- Example: KRS 242.020(4) lists petition wording for full wet election.
- KRS 242.020(6) provides that substantial compliance with the wording designated under this chapter for a particular type of petition is sufficient to validate the actual wording of the petition.



Petition for Local Option Election Filing and Calling of Election

- Petition for local option election is filed with the county clerk. (KRS 242.020(1)).
- The county clerk notifies the county judge executive if petition qualifies. (KRS 242.020(5)).
- The county judge executive makes an order on the order book of the court directing an election to be held in the territory. (KRS 242.020(5)).



Date of Local Option Election

Date of Election

- A local option election cannot be held prior to sixty (60) after filing the petition or after ninety (90) days of the filing. (KRS 242.030 (2)).
- County judge executive may order an election to be held on a date other than that named in the petition. Donohue v. Sindler, 184 S.W.2d 348 (Ky. 1944).
- Local option election cannot be held on the same day of a primary or general election or within (30) days of those elections. (KRS 242.030 (3)). Exceptions: local option elections for limited restaurants and qualified historic sites.



Frequency of Local Option Elections

- A local option election cannot be held in same territory more than once every three (3) years. (KRS 242.030(5)).
- A city and county are not the same territory. (KRS 241.010(56); KRS 242.125).
- If a county has an election, a qualified city within the county could have its own separate election within three (3) years.



Local Option Election Rules

- The general election laws, including penalties for violations, apply to local option elections, except where KRS Chapter 242 is inconsistent. (KRS 242.060(1)).
- Costs of elections are borne by county. (KRS 242.060(2)).
- Precinct election officers appointed for a primary and a regular election under KRS 117.045 serve as precinct election officers in local option elections.



Effective Date of Wet Election Results

- KRS 242.200 provides that the results of the election become effective 60 days after the election is certified.
- If the measure passes, the county or city becomes wet after 60 days.
- County or city needs to start the ordinance process immediately after the local option election so local licenses and fees are in place before it becomes wet.



Annexation/Merger

- If a city annexes county territory or part of one precinct into a different precinct, the annexed territory assumes the same local option status as the local option status of the annexing city precinct. KRS 242.190(2); OAG 81-399, OAG 82-153.
- However, if part of a county precinct is merged or annexed into a different county precinct, it retains its status irrespective of the status of the annexing precinct. OAG 85-7 (citing Rich-Hills Catering Co. v. Slattery, 448 S.W.2d 379 (Ky. 1969); OAG 77-10.



Elections to Become Fully Wet

- All counties can have local option elections to become fully wet. See, KRS 242.020- .050; KRS 242.125.
- Cities of the first four (4) classes can have an election to permit the city to become fully wet separate from a dry county. KRS 242.125 .
- Prohibition against 5th and 6th class city local option elections is constitutional. May v. Drake, 219 S.W.2d 31 (1949).
- On August 8, 2013, there were thirty-five (35) wet counties.
- On August 8, 2013, there are thirty-six (36) wet cities located in dry counties.



Full Wet Petition and Ballot Questions

Petition Question

The petition should read, **“We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of County or City)?'”** See, KRS 242.020 and KRS 242.125 (2).

Ballot Question

The ballot should read, **“Are you in favor of the sale of alcoholic beverages in (Name of County or City)?”** See, KRS 242.050 and KRS 242.125 (2).



Precinct Elections

After a City or County Election

- If a county votes to become fully wet, precincts within the county are permitted to have their own separate elections to become dry again. Campbell v. Brewer, 884 S.W.2d 638 (Ky. 1994).
- If a city votes to become fully wet, precincts within the city are permitted to have their own separate elections to become dry again. (KRS 242.125).
- Law is unclear whether a precinct must now wait three years before having a separate election to return to dry status.



Types of Alcoholic Beverage Licenses Available After a Successful Wet Election

- Types of STATE alcoholic beverage licenses available are listed in KRS 243.030, KRS 243.040.
- Types of COUNTY alcoholic beverage licenses available are listed in KRS 243.060.
- Types of CITY alcoholic beverage licenses available are listed in KRS 243.070.



Main Retail License Types after Fully Wet Election

- Quota Retail Package license(QP/LP)
- Non-Quota Retail Malt Beverage Package license (NQ)
- Quota Retail Drink license (QD/LD)
- Non-Quota Retail Drink licenses (NQ1, NQ2, NQ3, NQ4)
- Temporary Drink licenses (T)



“Moist” Elections

“Moist” means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections. (KRS 241.010(36))

Limited Restaurant Elections. (KRS 242.1244).

Golf Course Election. (KRS 242.123). Precinct.

Small Farm Winery. (KRS 242.124). Precinct.

Qualified Historic Site Election. (KRS 242.1242). Precinct.

Horse Racetrack Election. (KRS 242.1238). Precinct.

A moist county or moist qualified city, can have a later local option election to become fully wet. (KRS 242.125).



Moist Elections- Limited Restaurants (LR)

- All counties and cities can have a Limited Restaurant (LR) local option election.
- Courts made clear that ANY class city (even 5th and 6th class cities) can have a Limited Restaurant local option election separate from a county. Dalton v. Fortner, 125 S.W.3d 316 (Ky. App. 2003).
- There are two (2) different types of (LR) local option elections:
 - LR (100) Election. (KRS 242.1244(2))
 - LR (50) Election. (KRS 242.1244(1))



Moist Elections- Limited Restaurant (LR)

Differences between LR 100 and LR 50 elections:

- 100 versus 50 seating requirement for restaurant.
- LR 50 only permits alcohol to be served with meal (no meal, no alcohol).
- LR 50 does not permit restaurant to have a bar area.

As of August 1, 2012, there were:

- LR-100: twenty-six (26) cities and three (3) counties
- LR-50: six (6) cities and one (1) county.



Petition and Ballot Questions for LR 50 Elections

Petition Question

The petition should read: **"We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?'"**

Ballot Question

The ballot should read: **"Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?"**



Petition and Ballot Questions for LR 100 Elections

Petition Question

The petition should read: **"We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?'"**.

Ballot Question

The ballot should read: **"Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?"**



Limited Restaurant (LR) License

- A limited restaurant (LR) can be issued to a qualifying restaurant in an LR territory.
- A LR license permits distilled spirits, wine, and beer sales by the drink for consumption ON the premises of a qualifying restaurant.
- LR license does not permit package alcohol sales for consumption off the premises.
- A catering license is only other type of license permitted in a LR county or city. See, KRS 243.033.



Limited Restaurant (LR) License

- A restaurant holding a LR license must maintain seventy percent (70%) food sales of its total sales in order to remain licensed.
- A restaurant holding a LR license must maintain minimum seating (100 or 50) for consumers in order to remain licensed.
- A restaurant holding a LR license in LR 50 territory cannot have a bar or sell alcoholic beverages without a meal. (KRS 243.034(4)).



Moist Precinct Elections

- Generally, a county or city precinct cannot have its own election to become wet.
- KRS 242.1292 provides for special precinct elections in second class cities to permit limited alcohol sales.
- KRS 242.1242 provides for precinct elections to permit alcohol sales at Qualified Historic Sites in the precinct.
- KRS 242.124 provides for precinct elections to permit alcohol sales at a specific Small Farm Winery in the precinct.
- KRS 242.123 provides for precinct elections to permit alcohol sales at a specific Golf Course in the precinct.



Moist Elections- Qualified Historic Sites

"Qualified Historic Site" means:

A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places.

Site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served.

A not-for-profit or nonprofit facility listed on the National Register of Historic Places.



Petition and Ballot Questions for Qualified Historic Site Election

Petition Question

The petition should read: “We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?'”. (KRS 242.1242).

Ballot Question

The ballot should read: “Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)? “

Election Result:

If election passes, only qualified historic site license may be issued in precinct.



Moist Elections- Small Farm Winery

“Small farm winery” means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a year. See, KRS 241.010(52) .

Petition Question

The petition should read: “We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of wine at (name of the licensed or proposed small farm winery or wineries)?’” (KRS 242.124).

Ballot Question

The ballot should read: “Are you in favor of the sale of wine at (name of the licensed or proposed small farm winery or wineries)?” (KRS 242.124).



Result of Moist Small Farm Winery Election

If election passes, a Small Farm Winery license may be issued in precinct. (KRS 243.155).

Small Farm Winery license authorizes the winery to sell by the drink or by the package, wine produced by the winery or produced by another small farm winery.

The Small Farm Winery license holder may also hold an NQ2 Retail Drink license and an NQ4 Retail Malt Beverage Drink license if the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed, and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.



Moist Elections- Golf Course

“Golf Course” must be a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course. (KRS 242.123(1)).

In order to have this moist election, the county must contain a wet city. (wet city required).

If election passes, only a golf course license may be issued in precinct.

A Limited Golf Course license authorizes the sale of liquor, wine, and beer by the drink for consumption ON the golf course.



Petition and Ballot Question for Golf Course Elections

Petition Question

The petition should read: **“We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?’”**. (KRS 242.123).

Ballot Question

The ballot should read: **“Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?”**



Moist Elections- Horse Racetrack

A precinct election may be held in any precinct containing a horse racetrack licensed under KRS 230.300. County must contain a third or fourth class city.

If election passes, an NQ1 license may issued to the horse racetrack.

An NQ1 license authorizes the sale of liquor, wine, and beer by the drink for consumption ON the horse track premises.



Petition and Ballot Question for Horse Racetrack Elections

Petition Question

The petition should read: **“We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?’”** (KRS 242.1238).

Ballot Question

The ballot should read: **“Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?”**.



Process After Election

There is no local “alcohol tax” available. KRS 243.075 permits an additional regulatory license FEE based on percentage of sales.

This fee is only available in counties with, or in, a 3rd and 4th wet class city or in LR counties and cities.

Fees must be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages .

“You abuse it, you lose it.”



Process After Election

Regulatory License Fees

Local licensing fees and renewal fees are general fund sources. (KRS 242.060 and KRS 243.070).

There is no local “alcohol tax” available. KRS 243.075 permits an additional regulatory license FEE based on percentage of sales.

This fee is only available in counties with, or in, a 3rd and 4th wet class city or in LR counties and cities.

Fees must be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages .

“You abuse it, you lose it.”



Process After Election

Local Ordinances (permissible and questionable)

- Hours of sale
- Sunday sales
- Adult Entertainment
- Distance Requirements from school, church (questionable)
- Different kinds of licenses not listed in KRS 243.060 and KRS 243.070. (questionable)
- Different license requirements from state requirements for same kind of license. (questionable).



END

Questions





Alcoholic Beverage Control Summit

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Server Education Requirements

Presenter: Tiffany Quarles
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Server Education

RBS training is a community-based approach to promote public safety and to reduce risks associated with the retail alcohol environment. RBS has three essential elements:

- 1) The adoption of alcohol-service policy for ABC-licensed establishments;
- 2) The providing of server education and guidance;
- 3) The development of partnerships between law enforcement, local government and community groups.

<http://www.abc.ca.gov>



Responsible Beverage Server Training Programs

- S.T.A.R.
- TIPS
- Serve Safe
- Learn 2 Serve
- Some corporations have their own programs



Methods of Delivery

- Classroom Lecture
- Online Training



Server Education Requirements

- Currently Kentucky does not mandate training.
- However, several local governments have written ordinances mandating server training.
 - 61 communities in Kentucky currently require training
 - Approximately 17 of those ordinances require S.T.A.R. only



Why Should Communities Require Training?

- Educates servers/sellers on state laws and regulations regarding alcohol sales
- Outlines priorities regarding responsible sale of alcohol
- Provides consistent expectations for licensees
- Allows direct contact with servers and sellers of alcohol



Server Education Requirements

- Responsible Beverage Server Training guidelines are set by local ordinance.
- Ordinances may address:
 - Requirements for programs to be accepted
 - What method of presentation is accepted
 - What programs are accepted
 - Timeframes for training



Enforcing Server Education

- Enforcing the ordinance is the responsibility of the local government.
- The Department of Alcoholic Beverage Control does not check businesses for compliance with training ordinances.



Enforcing Server Education

Various ways of checking that businesses have trained their employees:

- Present spreadsheet at time of renewal of local license indicating who has trained, when, program used, and expiration date
- Require employee listing and copies of their training certificate at time of renewal of local license
- Check training certificates during routine inspections



Supporting Local Training Ordinances

- Schedule S.T.A.R. trainings to meet needs of the community
- Send reminder postcards about classes
- Open communication between the Department of Alcoholic Beverage Control and the local ABC administrator
 - Who trained, community needs, etc.



Need for a State Mandate

- 2012 Governor's Task Force on Underage Drinking discussed the need for a statewide mandate
 - Create workgroup to discuss/research topic
 - Approximately 1 year to complete
 - Anticipating presentation to legislature in 2015
- Create consistency in requirements



S.T.A.R.

Server Training in Alcohol Regulations



S.T.A.R.

- Kentucky specific responsible beverage server training program designed for:
 - Licensees,
 - Local ABC administrators
 - Law enforcement
- 4 ½ hour tested class
- 3 year certification
- Offered on statewide rotating schedule
- Available in Spanish
- Private classes available for groups



Purpose of S.T.A.R. Training

- To provide servers and sellers with the tools to responsibly serve and sell alcoholic beverages
- To provide tools that allow you to be a positive force in reducing alcohol related problems in Kentucky



S.T.A.R. Course Curriculum

S.T.A.R. is organized in three sections with a section review at the end of each.

1. Laws & liabilities
2. Identification types
3. Avoiding over-service



Laws & Liability

- Contains information about liability in Kentucky regarding irresponsible alcohol sales
- Review of 24 specific Kentucky ABC laws
- Instructors field questions regarding legal and enforcement



Identifications

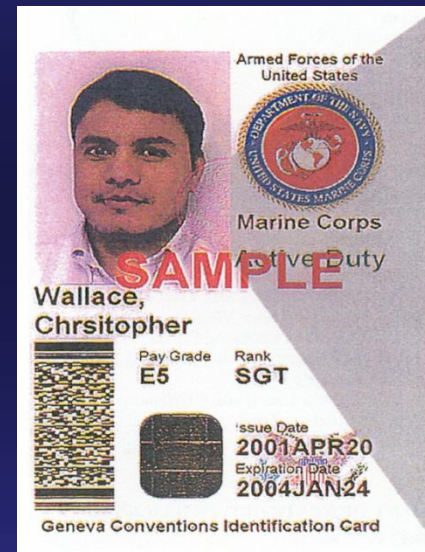
- A very important piece of the curriculum, gives examples of all types of valid and fraudulent IDs to educate the server/seller
- Examines the operator licenses of Kentucky and the 7 surrounding states



Identifications

Also examines the other types of identifications that we recommend accepting:

- State-issued ID
- Military ID
- Residency alien cards
- Passports



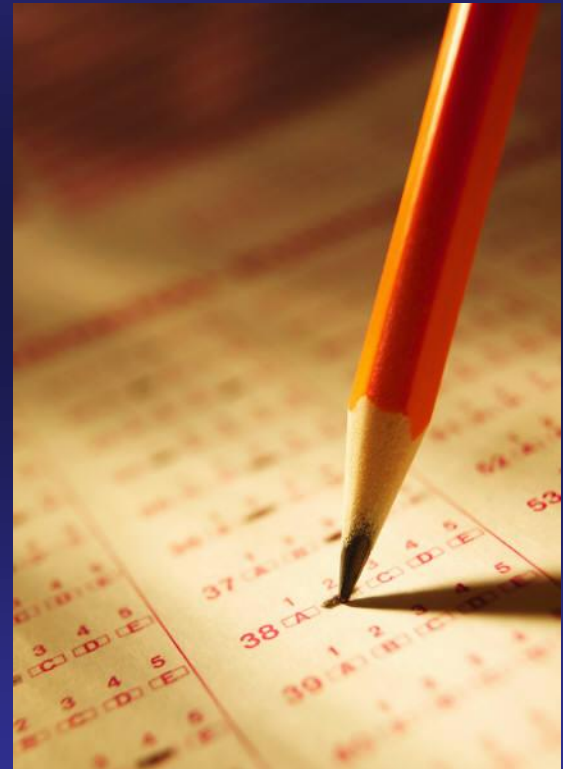
Avoiding Over-service

- Explains Blood Alcohol Content (BAC) and how it is measured
- Shows how alcohol affects the body and explains some of the physical signs of intoxication
- Gives tips to avoid over-service
- Discusses what to do in the case of suspected alcohol poisoning



S.T.A.R. Exam

- Covers the entire course
- Completed on scantron sheet
- Graded at office
- Certifications mailed to student



S.T.A.R. Certification

- Successful completion of S.T.A.R. certifies the student
- Certifications are valid for three years
- Certification is the property of the student
- Accepted across the Commonwealth

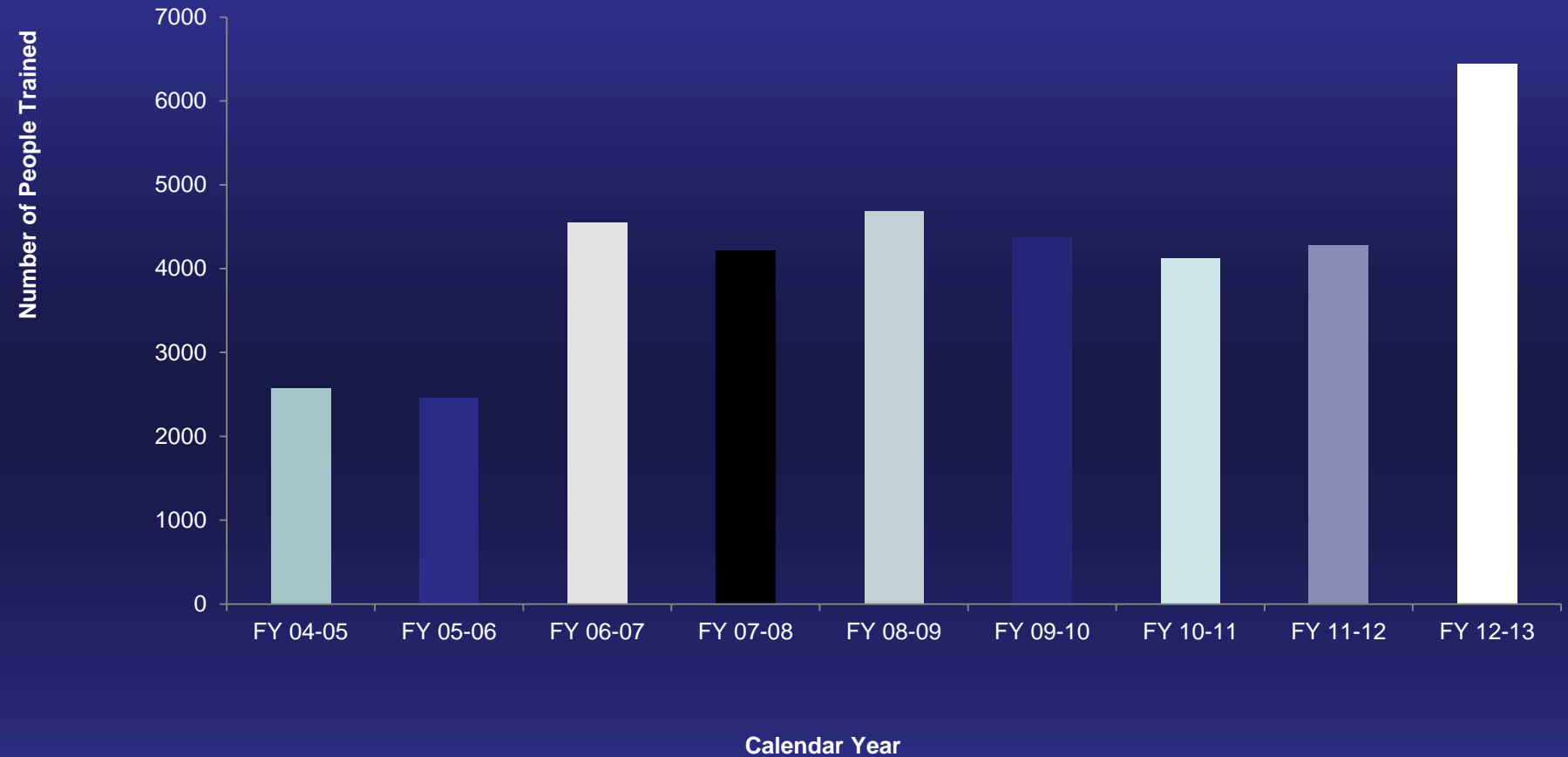


Future Goals for S.T.A.R.

- Develop an effective on-line certification program
- Communicate more through e-mail
- Create server/seller distribution lists for efficient communication



People Trained in S.T.A.R.



Questions?



